IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LDG) NO.3086 OF 2005

Satish Hirji Niser .. ..Petitioner

Versus

Municipal Corporation of Gr.Bombay & Ors..Respondents

Mr.P.J.Thorat for petitioner

Mrs. A.R.Joshi for respondents

CORAM : P.V.KAKADE, J.

DATE : 23rd DECEMBER,2005

MENTIONED NOT ON BOARD

P.C.:

. Heard the learned counsel for both the parties. The learned counsel for the respondents waive service. Perused the record.

. Rule, rule made returnable forthwith by consent.

1. The Petitioner is permitted to file reply/additional reply to the impugned Notice dated 2.5.2005, bearing No.KW/351/906/BF passed under Section 351 of the Mumbai Municipal Corporation Act, 1888 in respect of Unit No.29-M, Laxmi Industrial Estate, Andheri (West), Mumbai 400 058, within a period of two weeks from today.

2. The Petitioner No.3 shall consider the reply/additional reply along with the documentary evidence filed by the Petitioner by giving a personal hearing to the petitioner and shall pass appropriate order within a period of four weeks of filing such reply/additional reply.

3. In the event the order passed by the respondent no.3 is adverse to the petitioner, the respondents shall not take any action of demolition and/or removal of any portion of the mezzanine floor of the aforesaid unit for a further period of six weeks from the date of communication of the order passed by the Respondent no.3 as per clause no.2 hereinabove, in order to enable the

petitioner to issue a prior notice under Section 527 of the Mumbai Municipal Corporation Act, 1888 before filing/instituting a suit before the appropriate Forum.

4. The respondents shall not take any action of demolition and/or removal of any part of the mezzanine floor which is the subject matter of the impugned notice in respect of the aforesaid unit till the period as mentioned in clauses 2 and 3 expires.

5. It is clarified that this order should not be construed as permission to make reconstruction.

6. Writ Petition is disposed off accordingly.

7. No order as to costs.